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MEMORIAL HEALTH SERVICES and
9 LONG BEACH MEMORIAL MEDICAL
CENTER

11 UNITED STATES DISTRICT COURT

12 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

14 AMY L. STENDAL, individually and
on behalf of herself and all others
15 similarly situated.

16 Plaintiff,

17 v.

18 MEMORIAL HEALTH SERVICES, a
California Nonprofit Corporation;
19 LONG BEACH MEMORIAL
MEDICAL CENTER, a California
20 Nonprofit Corporation; MILLER
CHILDREN'S HOSPITAL LONG
21 BEACH AUXILIARY, INC. a
California Nonprofit Corporation, and
22 DOES 1-50, inclusive,

23 Defendants.

Case No.
LASC Case No. 23STCV00566

**DEFENDANTS MEMORIAL
HEALTH SERVICES AND LONG
BEACH MEMORIAL MEDICAL
CENTER'S NOTICE OF
REMOVAL OF ACTION
PURSUANT TO 29 U.S.C. § 185
(LMRA PREEMPTION) AND 28
U.S.C. § 1441(a) (FEDERAL
QUESTION)**

*[Filed Concurrently with: Corporate
Disclosure Statement; Notice of
Interested Parties; and Declarations of
Cynthia Rocha and Melissa M. Smith in
support of Defendants' Notice of
Removal of Action]*

Complaint Filed: January 11, 2023
Trial Date: None set

1 Memorial Medical Center beginning May 26, 2016 through December 22, 2019, is
2 attached to the concurrently filed Declaration of Cynthia Rocha and marked
3 “**Exhibit A.**” Rocha Decl., at ¶ 3 & Exhibit A. A true and correct copy of the CBA
4 in effect between the California Nurses Association and Long Beach Memorial
5 Medical Center effective December 23, 2019 through June 23, 2022, is attached to
6 the concurrently filed Declaration of Cynthia Rocha and marked “**Exhibit B.**”
7 Rocha Decl., at ¶ 3 & Exhibit B. The CBAs expressly provide for the wages, hours
8 of work, including overtime, and working conditions of employees. Rocha Decl., at
9 ¶ 3 & Exhibit A, at pp. 15-20 (working conditions), 22-24 (hours of work, including
10 overtime), 24-26 (compensation); Id. at ¶ 3 & Exhibit B, at pp. 15-24 (working
11 conditions), 25-27 (hours of work, including overtime), 28-31 (compensation).

12 3. On or about January 11, 2023, Plaintiff filed a proposed class action
13 complaint against Defendants in the Superior Court of the State of California,
14 County of Los Angeles, Case No. 23STCV00566 (the “Complaint”). A true and
15 correct copy of the Complaint is attached to the concurrently filed Declaration of
16 Melissa M. Smith and marked “**Exhibit C.**”

17 4. On January 25, 2023, Defendants were served with Plaintiff’s
18 Complaint by electronic service. A true and correct copy of the Proof of Service for
19 each Defendant is attached to the concurrently filed Declaration of Melissa M.
20 Smith and marked “**Exhibit D.**”

21 5. The Complaint purports to assert claims for relief arising out of
22 Plaintiff’s employment with Defendant Long Beach Memorial Medical Center, on
23 behalf of a proposed class of all non-exempt employees of Defendant who worked
24 in California at any time since July 15, 2018. Specifically, Plaintiff brings claims
25 for: (1) failure to pay minimum wages; (2) failure to pay overtime; (3) failure to
26 provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to
27 timely pay wages during employment; (6) failure to timely pay wages owed upon
28 separation of employment; (7) failure to reimburse necessary expenses; (8) knowing

1 and intentional failure to comply with itemized wage statement provisions; and (9)
 2 violation of the Unfair Competition Law. See generally Declaration of Melissa M.
 3 Smith (“Smith Decl.”), at ¶ 2 & Exhibit C.

4 6. Defendants filed and served their answer to Plaintiff’s Complaint in
 5 state court on February 23, 2023, just prior to filing and serving this Notice of
 6 Removal. Pursuant to Defendants’ affirmative defenses, Defendants contend
 7 Plaintiff’s overtime claim is preempted by the Labor Management Relations Act. A
 8 true and correct copy of Defendants’ Answer is attached to the concurrently filed
 9 Declaration of Melissa M. Smith and marked hereto as “**Exhibit E.**”

10 **TIMELINESS OF REMOVAL**

11 7. This Notice of Removal is timely as it is being filed within 30 days of
 12 the first receipt by a defendant of a copy of an “order or other paper” (in this case,
 13 the Complaint) from which it was first ascertained the case had become removable.
 14 28 U.S.C. § 1446(b)(3).

15 **LMRA PREEMPTION UNDER 29 U.S.C. § 185**

16 8. Plaintiff’s overtime claim in the Complaint is completely preempted by
 17 29 U.S.C. § 185 (i.e., § 301 of the LMRA) and, thus, this case may be removed
 18 pursuant to 28 U.S.C. § 1441(a). See Curtis, 913 F.3d at 1152 (“Although normally
 19 federal preemption is a defense that does not authorize removal to federal court, §
 20 301 has such extraordinary preemptive power that it converts an ordinary state
 21 common law complaint into one stating a federal claim for purposes of the well-
 22 pleaded complaint rule. In other words, a civil complaint raising claims preempted
 23 by § 301 raises a federal question that can be removed to federal court.”) (internal
 24 citation omitted for clarity).

25 9. As her second cause of action, Plaintiff alleges that Defendants failed
 26 to pay daily overtime (i.e. overtime for hours worked over 8 in a day) and weekly
 27 overtime (i.e. overtime for hours working over 40 in a week) pursuant to Labor
 28 Code section 510. Smith Decl., at ¶ 2 & Exhibit C, ¶ 68.

1 10. Pursuant to the ruling in Curtis and 29 U.S.C. §185, Plaintiff's claim is
 2 controlled by the CBAs that were in effect during her employment. Thus, 29 U.S.C.
 3 §185, a federal law, applies and the claims are preempted. See generally 29 U.S.C.
 4 §185(a) ("Suits for violation of contracts between an employer and a labor
 5 organization representing employees in an industry affecting commerce as defined
 6 in this chapter, or between any such labor organizations, may be brought in any
 7 district court of the United States having jurisdiction of the parties, without respect
 8 to the amount in controversy or without regard to the citizenship of the parties.").
 9 Accordingly, this Court has original jurisdiction over the overtime claim in this
 10 action.

11 **SUPPLEMENTAL JURISDICTION**

12 11. Under 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction
 13 over Plaintiff's remaining state law causes of action, most of which are predicated
 14 on and related to Plaintiff's claim for alleged failure to pay overtime, which is
 15 preempted pursuant to 29 U.S.C. § 185, and generally matters that are in the scope
 16 of the collective bargaining agreements. See, e.g., Smith Decl., at ¶ 2 & Exhibit C,
 17 at ¶¶ 59, 79, 90, 96-97, 102, 109-11, 118, and 126; Rocha Decl., at ¶ 3 & Exhibits
 18 A, B. Plaintiff's state law causes of action are so related to the federal claim, so as
 19 to form part of the same case or controversy under Article III of the United States
 20 Constitution. As such, supplemental jurisdiction is appropriate.

21 **VENUE**

22 12. Venue lies in the Central District of California pursuant to 28 U.S.C. §§
 23 1441, 1446(a), and 84(b). This action originally was brought in the Superior Court
 24 of the State of California, County of Los Angeles.

25 **NOTICE OF REMOVAL**

26 13. This Notice of Removal will be promptly served on Plaintiff and filed
 27 with the Clerk of the Superior Court of the State of California in and for the County
 28 of Los Angeles.

1 14. In compliance with 28 U.S.C. § 1446(a), true and correct copies of all
2 “process, pleadings, and orders” from the state court action served on Defendants or
3 filed by Defendants are attached hereto as the following exhibits, including: the
4 Complaint, summons, civil case cover sheet, and order assigning the action to the
5 Honorable Elihu Berle (Smith Decl., at ¶ 2 & Exhibit C), the Proofs of Service of
6 Summons to Defendants Memorial Health Services and Long Beach Memorial
7 Medical Center (Id. at ¶ 3 & Exhibit D), and Defendants’ Answer to the Complaint
8 (Id. at ¶ 4 & Exhibit E).

9 **WHEREFORE**, Defendants requests that the above action pending before
10 the Superior Court of the State of California for the County of Los Angeles be
11 removed to the United States District Court for the Central District of California.

12
13 Dated: February 23, 2023

14 SHEPPARD, MULLIN, RICHTER & HAMPTON
15 LLP

16 By



17 DANIEL J. McQUEEN
18 MELISSA M. SMITH
19 ALEXANDER RAFUSE

20 Attorneys for Defendants
21 MEMORIAL HEALTH SERVICES and
22 LONG BEACH MEMORIAL MEDICAL CENTER
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